IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No. 904 of 2006

For Approval and Signature:

HONOURABLE MR.JUSTICE AKIL KURESHI

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1 Whether Reporters of Local Papers may be allowed to see the judgment?

2 To be referred to the Reporter or not?

3 Whether their Lordships wish to see the fair copy of the judgment?

4 Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 or any order made thereunder?

5 Whether it is to be circulated to the Civil Judge?

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PRAVINBHAI VALLABHBHAI PATEL - Petitioner(s)

Versus

STATE OF GUJARAT THR' SECRETARY & 1 - Respondent(s)

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Appearance :
MR BG PATEL for Petitioner(s) : 1,
MS FALGUNI PATEL, ASSISTANT GOVERNMENT PLEADER for Respondent No.1
MR ASHOK YAGNIK for Respondent(s) : 2,

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CORAM : HONOURABLE MR.JUSTICE AKIL KURESHI

Date : 17/02/2006

ORAL JUDGMENT

1. Heard Mr. B.G.Patel learned Advocate for the petitioner and Ms. Falguni Patel, learned Assistant

Government Pleader for Respondent No.1. Though served Respondent No.2 is not represented.

2. In the present petition, the petitioner has challenged the order dated 01.11.1999 passed by Deputy Collector, as confirmed by an order dated 21.12.2005 passed by Joint Secretary (Appeals), Revenue Department, Government of Gujarat.

3. Issue pertains to land bearing Survey No. 24 Paiki, admeasuring 81 Are 95 Sq.Mts. of Village Tandi, Taluka – Jhalod, District – Dahod. The land in question was purchased by the petitioner from Respondent No.2 by Registered Sale – Deed dated 21.02.1981. The Revenue Authorities finding that the sale transaction offended the provisions contained in Section 73AA of Bombay Land Revenue Code, passed order dated 01.11.1999 setting aside the sale in question.

4. The petitioner preferred revision application against the order passed by the Deputy Collector. However, the Joint Secretary rejected the Revision Application filed by the petitioner by order dated 21.12.2005. The petitioner has therefore, filed the

present petition.

5. The main ground on which the learned Advocate for the petitioner challenged the impugned orders was that before Deputy Collector passed his impugned order dated 01.11.1999, no notice was issued to the petitioner nor any opportunity of being heard given to him. Thus, without hearing the petitioner the land purchased by him came to be ordered to be confiscated by the Government. Specific averments are made by the petitioner in the petition in this regard. There is no denial to this factual aspect of the matter.

6. In the result, the impugned orders are required to be and are hereby quashed. It will be open for the Deputy Collector to pass fresh order in accordance with law after issuance of show cause notice to the petitioner. In response to such show cause notice, if the petitioner raises contention regarding the delay, as also regarding the non applicability of the provisions of Section 73AA of Bombay Land Revenue Code, I am sure the authority will examine the same and pass appropriate orders in accordance with law.

7. In the result, the petition is allowed. Rule made

absolute to the aforesaid extent. No order as to costs.

[Akil Kureshi, J.]

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